

## **The Strategic Use of Resettlement**

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### Overview

With both the asylum issue and migrant smuggling high on the agenda of the EU, discussion has emerged about other appropriate ways to permit refugees to arrive in EU Member States. Refugee resettlement is being considered more widely both in individual governments and in the European Commission, as a way of managing the arrival of pre-selected refugees. In its 22 November 2000 Communication<sup>1</sup> the Commission wrote:

Processing the request for protection in the region of origin and facilitating the arrival of refugees on the territory of the Member States by a resettlement scheme are ways of offering rapid access to protection without refugees being at the mercy of illegal immigration or trafficking gangs or having to wait years for recognition of their status.

Resettlement involves the selection and transfer of refugees from a state in which they have initially sought protection to a third state which has agreed to admit them with permanent residence status. Resettlement can be used when refugees can neither return to their country of origin, nor be protected effectively and integrate in their country of first asylum. There are three traditional and equal goals of resettlement: protection, provision of durable solutions, and burden sharing with host countries.

While these three goals remain paramount, resettlement programmes are often shaped by other functions. Some states use resettlement to reflect certain foreign policy goals, or to demonstrate support to domestic ethnic communities formed by earlier arrivals. In the debate about resettlement in Europe, the role it can play in managing refugees' arrival in an orderly fashion has become prominent, and is seen as one facet of the potential strategic use of this refugee protection tool. Regardless of the functions attributed to resettlement, the motives behind its successful use remain **humanitarian** in nature.

Both resettlement and asylum can offer humanitarian protection and may form complementary elements in an overall refugee protection framework. However, the starting points of the processes are different. Resettlement is a programme through which states decide *in advance* who they can help, and select individuals whose protection they can guarantee after arrival. Resettlement can offer a durable solution in protracted refugee situations and can be a tool for the managed arrival of refugees whose status is

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<sup>1</sup> *Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum* COM (2000) 755 final.

determined in advance of their travel. Domestic asylum systems, in contrast, should be maintained for people who have sought and requested, by their own means, the protection of a safe and rights-respecting state. Countries with resettlement programmes still see asylum arrivals.

In the current discussion, some policy-makers posit that resettlement can replace asylum systems altogether, while others assert that resettlement could very well co-exist with asylum but could not be a total alternative. Similarly, some suggest that resettlement of refugees could help end smuggling and trafficking – while others contend that both refugees and economic migrants would continue to use smugglers and be exploited by traffickers. The Commission has maintained throughout the EU discussion on the subject that any resettlement programme must be compatible with the long term objectives of the Common European Asylum System (CEAS) and support efforts to improve the management of forced migration movements, facilitating legal access to international protection by those justifiably seeking such protection. The Commission has clearly stated, echoing paragraph 13 of the Tampere Conclusions,<sup>2</sup> that while identification of and selection of persons in need of protection for resettlement might provide a means for some people to avoid entering the territory of Member States irregularly, any resettlement scheme must be complementary to and not alternative to the processing of spontaneous asylum claims in EU Member States or at the borders. Indeed, resettlement can best be considered as part of a comprehensive approach to refugee protection, linked not only to the emerging Common Asylum System in Europe but also to the full range of migration issues including the other ‘durable solutions’, return and local integration.

Four EU Member States (Sweden, Finland, Denmark and the Netherlands) are traditional countries of resettlement and one more (Ireland) has been on UNHCR’s list of ‘emerging resettlement countries’ since 1999.<sup>3</sup> The UK has just started a programme in 2003. In total, those six Member States could see the admission of up to 3,500 refugees for resettlement in 2003.

Many more Member States conducted resettlement of the Indo-Chinese in the 1970s and 1980s, and some also conduct *ad hoc* resettlement on request from UNHCR. As such, resettlement is not a new issue in European states. It is, however, newly prominent in policy discussions.

### Discussion

The European Commission and some Member States see a potential for resettlement to be strategically used to manage a greater number of legal arrivals to the EU Member States than is currently the case. As the number of such arrivals, in 2003, is less than

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<sup>2</sup> “The European Council reaffirms the importance the Union and Member States attach to absolute respect of the right to seek asylum. It has agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement.”

<sup>3</sup> Spain was also on the list of emerging resettlement countries until summer 2003.

3,500, it can be said with certainty that the development of resettlement capacity across the EU would facilitate the managed arrival of *more* refugees.

The crucial question is whether there is **political will** among a larger number of Member States to engage in resettlement. Before beginning any type of resettlement programme the EU must be fully aware of the *necessary level of resource commitment* and the need to *bring in or create partners* that would allow the programme to function optimally.

*Traditionally* the political will amongst EU Member States to engage in resettlement was based purely on **humanitarianism**. The resettlement programmes of non-EU states often also reflect national priorities such as foreign policy goals or domestic ethnic politics. The UNHCR Working Group on Resettlement<sup>4</sup>, which has recently issued a document on the Strategic Use of Resettlement,<sup>5</sup> noted that the managed and orderly arrival of persons in need of international protection could result from resettlement. The Commission's Communication of 3 June 2003, indicates that EU Member States might indeed find the political will to pursue resettlement as a way to provide for '**managed and orderly arrivals of persons in need of international protection**'.

Unfortunately, this concern to manage the arrival of refugees can be interpreted as a desire to limit asylum seeker admissions. The Canadian Council for Refugees, in response to the Working Group paper on the Strategic Use of Resettlement stated that "Resettlement... is not an 'orderly' alternative to asylum."<sup>6</sup> However, managing the arrivals of more refugees successfully, and using resettlement strategically to achieve that goal, does not have to mean that states seek to reduce or prevent asylum seeker arrivals.

Such reactions are in part inspired by the on-going debate in Europe surrounding resettlement as a response to high asylum seeker numbers. Resettlement could certainly be used as a response to such numbers by EU Member States stepping in to actively select, resettle and protect, thereby allowing or persuading states in the region of origin to provide protection to more people, knowing onward, managed movement is available. Such a use of resettlement would be strategic in offering protection, showing solidarity and bolstering the EU's reputation as a humanitarian actor.

The strategic use of resettlement, discussed as an outcome of the Global Consultations, is a multifaceted idea. European states should engage strategically in resettlement as a means of significantly strengthening the EU harmonization process, as well as for the reasons just stated. It would also be strategic for the EU to engage in resettlement because the image of resettled refugees is generally more positive than that of asylum seekers – but also often has a 'knock on' effect – meaning that the public gets more information and understands more about the situations from which both resettled refugees and asylum

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<sup>4</sup> Comprises the UNHCR, resettlement states, emerging resettlement states, European Commission and IOM. It reports to the UNHCR Executive Committee in the framework of the implementation of the Agenda for Protection.

<sup>5</sup> *The Strategic Use of Resettlement: a Discussion Paper Prepared by the Working Group on Resettlement WGR/03/04.Rev3* (3 June 2003).

<sup>6</sup> Canadian Council for Refugees, *A Working Paper on the Strategic Use of Resettlement* (June 2003).

seekers have fled. In both the US and Canada, refugees have a very good reputation because the citizens of those countries associate the word refugee with resettlement and the great protection work their governments and NGOs do through the resettlement programmes. This good reputation extends implicitly to refugees who are admitted through asylum procedures.

These benefits of the development of broader resettlement programmes can be much more important in demonstrating that governments are **managing the refugee protection issue well** than any impact those programmes may or may not have on actual numbers of arrivals.

While there is no solid assessment of the need for resettlement worldwide, it is certainly more than the number of places currently available. Those places available total less than 100,000 per year, including the 3,500 from EU Member States. Some estimates of the actual need range between 100,000 and 250,000 places per year, but the true level could be higher.

The US has the largest resettlement programme, with an annual ceiling of between 70,000 and 132,000 each year over the past decade,<sup>7</sup> and a total admission of 807,008 refugees through resettlement between 1993 and 2002. It has also received 822,224 asylum applications between 1993 and 2002.<sup>8</sup> Canada has a target of some 12,000 refugees for resettlement across three types of resettlement programme, and currently receives between 30,000 and 40,000 asylum applications annually. Australia aims to receive 12,000 refugees per year, with precise resettlement numbers dependent on the number of asylum applications receiving a positive determination, and thereby qualifying them as among the 12,000. In the EU, Sweden, Denmark and the Netherlands all receive many more asylum applications than they have resettlement places<sup>9</sup> – and all experience the fluctuations in asylum statistics over the years that seem common in the EU. No country that carries out resettlement in significant numbers has seen spontaneous arrivals of asylum seekers disappear, or dwindle as a result of resettlement. None of these countries have engaged in resettlement with the goal of offering an alternative route to the smuggling and asylum-seeking path.

As the recently completed Feasibility Study on Resettlement shows, EU Member States should be aware that engaging in resettlement may have little or no impact on the number of spontaneous asylum seeker arrivals in the EU unless careful attention is paid to selection criteria and numerical targets, and even then, an impact cannot be guaranteed.

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<sup>7</sup> Governments set numerical quotas, ceilings or targets for resettlement programmes. The feasibility study on resettlement suggests a target for the EU, with a bidding process for individual Member State targets within the whole.

<sup>8</sup> US asylum application numbers were at a level above 140,000 for 1993, 1994 and 1995. They started to decrease in 1996 as a result of reforms, which removed access to work permits until a claim had been approved, or 180 days had passed since the claim was filed. The US also put massive resources into ensuring that the administration was in a position to take a *final* decision on almost every claim within a six-month period. Since 1997 the number of asylum applications in the US has been below 60,000 per year.

<sup>9</sup> In 2003, Sweden has a quota for 1,000 refugees: Denmark and the Netherlands for 500 each. Finland's quota is 750, and Ireland has a quota of 10 cases, which could mean about 60 or 70 refugees in families.

Nonetheless, the goal of using resettlement to **manage** the arrival in the EU of people in need of international protection can certainly be achieved – and success in that area will not affect or be affected by fluctuations in asylum seeker numbers. Such fluctuations, which are impacted by many other policy decisions and world events, will also not affect success in bolstering Europe’s humanitarian profile; imparting a better image of refugees and allowing the public across Europe to see that their governments are managing refugee protection effectively, partly through resettlement.

One of the goals of resettlement is the demonstration of **solidarity** with countries of first asylum. The experiences of Southeast Asian countries in the 1970s and 1980s demonstrate this. Thailand and Malaysia were persuaded to offer initial protection to hundreds of thousands of refugees from Vietnam only because they were assured that countries in North America and Europe, as well as Australia, would resettle the refugees. Austria was likewise in a position to receive and temporarily offer refuge to many thousands of refugees from Hungary in 1956, because other states were willing to organise their onward movement and protection. This also shows how resettlement can serve a foreign policy function, while achieving a principled aim. Resettlement can be strategically used to support countries of first asylum, encouraging them to continue to offer at least short-term effective protection when major crises occur in neighbouring states.

Another use of resettlement is in the offer of a **durable solution** to refugees who are in a protracted situation in which their short-term protection in a country close to home may have been effective, but they can neither return, nor reasonably stay in that country of first asylum for a long time. By offering a durable solution where resettlement is the only solution possible for an individual or group of refugees, resettlement countries can meet the protection needs of the refugees concerned, and can offer those refugees an opportunity for durable, effective protection without the need to pay vast sums to smugglers and undertake dangerous journeys.

These uses of resettlement show how it can be effectively used as one of three durable solutions in a **comprehensive approach**. In any refugee crisis, there are some refugees who can return home in the short- to medium-term; there are some who can integrate locally in their country of initial protection and there are others who need protection further away. Resettlement should target the latter group, but can most effectively be used as part of a comprehensive package that includes pragmatic and supportive measures for voluntary return and for local integration where the individuals and states concerned would most benefit from those solutions.

There will always be individuals who seek their own durable solution through asylum before such a package is in place – or in spite of such a package. They do not negate the obligation of *non-refoulement* contained in the 1951 Convention by doing so. Those who need to seek asylum in Europe in order to escape from a dangerous or hopeless situation may have little choice but to use the services of smugglers to escape or to negotiate a journey to a place where they feel best able to integrate -- for example, because a family member is already present – even if a resettlement programme is in operation. No

resettlement programme can always successfully meet the challenge of targeting all individuals who need long-term protection in a third country. A comprehensive approach to refugee protection, and indeed a **Common European International Protection System**, should therefore involve admission for protection in the EU through both resettlement and asylum.

### Recommendations

1. All EU Member States, whether separately or collectively, should establish resettlement programmes. These could be small, in the first instance, and only provide emergency resettlement for urgent protection cases, at the call of UNHCR. Over time attention should turn to selection criteria that permit more widespread resettlement, offering a durable solution to refugees and as a matter of burden sharing with states in the region of origin.
2. As a matter of strategy, EU Member States should view resettlement as part of a comprehensive approach to protection, which includes other durable solutions and is linked to the EU's external relations. A comprehensive approach would include capacity building measures in countries of first asylum (linked to local integration) as well as return and repatriation, both from countries in the region of origin and from the EU Member States.
3. The EU should consider how both its developing Common European Asylum System and a Resettlement Programme can fit in a Common European International Protection System, allowing the Union to develop a truly comprehensive approach to refugee protection.
4. As a short-term tactical measure to encourage resettlement in Member States that do not currently have programmes, partnerships should be established between those countries and the Member States that are traditional resettlement countries. A model for this can be found in the exchanges between Sweden and the UK after the Home Office announced it would establish a resettlement scheme.
5. To advance discussion on resettlement, the Commission should, following the Feasibility Study on Resettlement recently completed, present a Communication to the Council and the Parliament for discussion starting either in the High Level Working Group (reflecting the link to external relations, and permitting a role for the full range of ministries with interest in this subject) or in SCIFA. The aim of the discussion should be to explore avenues of agreement on establishing resettlement in all Member States and the role for the Union and Commission in such a programme or programmes. The Feasibility Study presents 6 models of subsidiarity for each element of a resettlement programme.

### Conclusion

The EU Member States should work to develop broader resettlement programmes which can be strategically used to the benefit of refugee protection, and to the advantage of refugees, countries of first asylum and the Member States themselves. One result of this would be the strengthening of the reputations of EU States as upholders of refugee protection globally. This would be a significant step in the EU harmonization process on

asylum and migration issues. Global actors in refugee protection need to show solidarity with countries facing large refugee influxes, and demonstrate a willingness to share (and not shift) the burden of protection. The fact that almost half the EU Member States engage in resettlement means that there will be a gap in the Common System if they continue their generally good and often long-standing practices while other States remain outside the resettlement system.

Political issues are bound to arise, particularly in the perennial discussion about numbers and selection criteria. What criteria beyond the need for protection can properly be used to identify the refugees to be resettled to any particular country? How many refugees can the EU Member States resettle? A target figure that goes significantly beyond the current total of 3,500 among EU resettlement countries should not be difficult for the 15 to decide upon. Those issues, for the sake of European integration and the humanitarian identity of Europe, should be discussed and managed as the European Union emerges as a powerful actor in refugee resettlement.